IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 305 OF 2004

MR. ANTONIO COLACO,NAVELIM-GOA. ....Petitioner

Versus

MR.VAZIR NARANGI AND 2 ORS., ...Respondents

Shri C.A. Coutinho for the petitioner.

Shri J.P. Mulgaonkar for respondent No.3.

Coram:- V.C. DAGA, J.

Date:- 24th August, 2006

P.C. :

Heard learned counsel for the rival parties.
Perused petition.

2. This petition is directed against the order dated 24th February, 2004 passed by the Presiding Officer, Motor Accident Claims Tribunal, South Goa, Margao ("Tribunal" for short) in Misc.Claim Application No.12/2003 taken out by the claimant in Claim Petition No.91 of 1995, whereby the application seeking restoration of the claim petition along with application for condonation of delay came to be rejected.

3. The cause shown in the application for condonation of delay is to be found in para-9 of the application for restoration, which reads as under:

> "That since than, the applicant's son was constantly falling sick - having moderate mental retardation - and required constant medical treatment and attention, as also love and affection, for which the applicant had to devote all his time to his son; various tests were required to be carried

out for which the applicant had to take his son to the G.M.C. Bambolim, etc; hence the applicant's mind was totally on his sons sickness."

Needless to mention that separate application for condonatin of delay was also moved by the petitioner along with application for restoration.

4. In support of the aforesaid averments, the medical certificate dated 25th November, 2002 issued by one Dr.Anil Redkar was produced by the applicant/ petitioner along with CT Scan report as also certificate issued by the Mental Hospital to establish sufficient cause. In spite of overwhelming evidence available on record, the Tribunal proceeded to reject the appalication considering the delay almost of one year holding that no sufficient cause was made out.

5. The learned counsel for the petitioner submits that sufficient material was produced on recored to establish cause and the delay ought to have been condoned by the Tribunal considering that no third party rights were involved. That no benefit was to accrue to the petitioner by delayed filing of the application for restoration. He submits that due to the circumstances circumsances beyond the control of the petitioner, he could not move application for restoration well within time.

6. The learned counsel appearing for respondent No.3- Insurance Co. submitted that the view taken by the Tribunal is a reasonable and possible view and this court should not interfere with the same.

7. Having heard rival parties, though delay in filing application is almost of one year, however, sufficient material in the form of documentary evidence is available on record to corroborate the cause shown. The cause shown, in my view, is a sufficeint cause warranting restoration of the claim petition.

8. In the result, impugned order is set aside. The Claim Petition No.91/1995 is restored to file of the Tribunal. The Tribunal is directed to dispose of the same treating it as expedited.

9. Petition stands disposed of in terms of this order with no order as to costs.

V.C. DAGA, J.

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